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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2056 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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PANCHAYAT VARGA KALYAN

COOPERATIVE HOU.SOC.

Versus

ADDL.CHIEF SECRETARY

(APPEALS)

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Appearance:

MS PANCHAL for MR ND NANAVATI for Petitioner

MR PUJARI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/11/2000

ORAL JUDGEMENT

The petitioner before this court is a Co-operative Housing Society of some backward class people. The society challenges the order dated 17th August, 1990, made by the Collector, District-Junagadh, and the order dated 5th July, 1991, made by the Government in respect of allotment of a particular piece of land to the petitioner society. It is claimed that the members of the petitioner society are the residents on the land bearing Survey No. 1654 of Mangrol town, and belong to Harijan and Chunara community. It is the claim of the society that the said land is a Government waste land and the members of the society have been residing over the said land for more than 60 years. The said

piece of land, therefore, be allotted to the society for residence of the members of the society. The District Collector, Junagadh, under his order dated 17th August, 1990, rejected the application on the ground that the said land was encroached upon and was not open for allotment to the applicant-society. Feeling aggrieved, the society appealed to the State Government. The Additional Chief Secretary to the State Government, Revenue Department (Appeals) under his order dated 5th July, 1991, has observed that the land in question was already encroached upon and all the encroachers were not the members of the society. They have not shown their willingness to remove the encroachment and the said land can not be allotted for development by the society unless it were an open land. It is also observed that in the event the society makes an alternative arrangement for encroachers to be removed, the Collector may consider the land to be allotted to the applicant-society. Feeling aggrieved, the society has preferred the present petition.

Ms. Panchal has submitted that the allotment of waste land to poor and a needy person is a public purpose and the Collector has power to allot the Government waste land for such public purpose. The society is ready and willing to pay price of the land to be allotted to the society. The authorities below, therefore, were not right in rejecting the application made by the society.

I am unable to agree with the contentions raised by Ms. Panchal. It is true that the allotment of land to needy and poor person is undoubtedly a public purpose, and the Collector has power to allot the Government waste land to such persons for their residence or for any other lawful purpose. However, it can not be said that the application made by the society has been rejected for no reason or for extraneous consideration. The authorities below are not averse to allot the land to the society or its members, but have given cogent reasons for not allotting the particular land bearing Survey No. 1654 situated at Mangrol. It has been found that the said land has already been encroached upon and all the occupants of the said land were not the members of the petitioner society. Unless the petitioner society makes an arrangement to shift the encroachers to some other land, the land bearing Survey No. 1654 can not be allotted to the petitioner society. The reasons given by the authorities below are cogent and reasonable. The impugned orders, therefore, do not warrant interference. The petitioner society may, however, make a fresh application for allotment of any other piece of

Government waste land which may be open for such allotment or the individual members of the society may apply for regularisation of the encroachment made by such individual member.

Petition is dismissed. Rule is discharged.  
Interim relief is vacated.

( MS R.M.DOSHIT J )

JOSHI